

1 Michael Kind, Esq.
2 Nevada Bar No.: 13903
3 **KIND LAW**
4 8860 South Maryland Parkway, Suite 106
5 Las Vegas, Nevada 89123
6 (702) 337-2322
7 (702) 329-5881 (fax)
8 mk@kindlaw.com

9 George Haines Esq.
10 Nevada Bar No. 9411
11 Gerardo Avalos Esq.
12 Nevada Bar No. 15171
13 **FREEDOM LAW FIRM**
14 8985 S. Eastern Ave., Suite 350
15 Las Vegas, Nevada 89123
16 (702) 880-5554
17 (702) 385-5518 (fax)
18 Ghaines@freedomlegalteam.com
19 *Counsel for Plaintiff Emma Patricio*

20 **UNITED STATES DISTRICT COURT**
21 **DISTRICT OF NEVADA**

22 Emma Patricio,

23 Plaintiff,

24 v.

25 Experian Information Solutions, Inc.;
26 and Discover Bank,

27 Defendants.

Case No.:

**Complaint for damages under the
FCRA, 15 U.S.C. § 1681**

Introduction

1. The United States Congress has found the banking system is dependent up-on fair and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking system, and unfair credit reporting methods undermine the public confidence, which is essential to the continued functioning of the banking system. Congress enacted the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq. (“FCRA”), to ensure fair and accurate re-orting, promote efficiency in the banking system, and protect consumer privacy. The FCRA seeks to ensure consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer’s right to privacy because consumer reporting agencies have assumed such a vital role in assembling and evaluating consumer credit and other information on consumers. The FCRA also imposes duties on the sources that provide credit information to credit reporting agencies, called “furnishers.”
2. The FCRA protects consumers through a tightly wound set of procedural protections from the material risk of harms that otherwise flow from inaccurate reporting. Thus, through the FCRA, Congress struck a balance between the credit industry’s desire to base credit decisions on accurate information, and consumers’ substantive right to protection from damage to reputation, shame, mortification, and the emotional distress that naturally follows from inaccurate reporting of a consumer’s fidelity to his or her financial obligations.
3. Emma Patricio (“Plaintiff”), by counsel, brings this action to challenge the actions of Experian Information Solutions, Inc. (“Experian”); and Discover Bank (“Discover”) (jointly as “Defendants”), with regard to erroneous reports of derogatory credit information to national reporting agencies and Defendants’ failure to properly investigate Plaintiff’s disputes.

- 1 4. Plaintiff makes these allegations on information and belief, with the exception of
- 2 those allegations that pertain to Plaintiff, which Plaintiff alleges on personal
- 3 knowledge.
- 4 5. While many violations are described below with specificity, this Complaint
- 5 alleges violations of the statutes cited in their entirety.
- 6 6. Unless otherwise stated, all the conduct engaged in by Defendants took place in
- 7 Nevada.
- 8 7. Any violations by Defendants were knowing, willful, and intentional, and
- 9 Defendants did not maintain procedures reasonably adapted to avoid any such
- 10 violations.
- 11 8. Defendants failed to properly investigate Plaintiff's disputes, damaging Plaintiff's
- 12 creditworthiness.

13 **Jurisdiction and Venue**

- 14 9. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331 (federal question
- 15 jurisdiction); 15 U.S.C. § 1681.
- 16 10. This action arises out of Defendants' violations of the FCRA.
- 17 11. Venue is proper in the United States District Court for the District of Nevada
- 18 pursuant to 28 U.S.C. § 1391(b) because Plaintiff is a resident of Clark County,
- 19 Nevada and because Defendants are subject to personal jurisdiction in Clark
- 20 County, Nevada as they conduct business here. Venue is also proper because the
- 21 conduct giving rise to this action occurred in Nevada. 28 U.S.C. § 1391(b)(2).

22 **Parties**

- 23 12. Plaintiff is a natural person living in Clark County, Nevada. In addition,
- 24 Plaintiff is a "consumer" as that term is defined by 15 U.S.C. § 1681a(c).
- 25 13. Defendants are each a corporation doing business in the State of Nevada.
- 26
- 27

1 14. Discover is a furnisher of information as contemplated by 15 U.S.C. §
 2 1681s-2(b) that regularly and in the ordinary course of business furnishes
 3 information to a consumer credit reporting agency.

4 15. Experian regularly assembles and/or evaluates consumer credit information for
 5 the purpose of furnishing consumer reports to third parties and uses interstate
 6 commerce to prepare and/or furnish the reports. This entity is a “consumer
 7 reporting agency” as that term is defined by 15 U.S.C. §1681a(f).

8 16. Unless otherwise indicated, the use of Defendants’ names in this Complaint
 9 includes all agents, employees, officers, members, directors, heirs, successors,
 10 assigns, principals, trustees, sureties, subrogees, representatives, and insurers of
 11 the named Defendants.

12 — **THE GENERAL ALLEGATIONS** —

13 **Re: Bankruptcy Case No. 20-15131**

14 17. On or about Oct 13, 2020, Plaintiff filed for bankruptcy in the United States
 15 bankruptcy Court for the District of Nevada pursuant to 11 U.S.C. §1301 et seq.
 16 (the “bankruptcy”).

17 18. The obligations to each creditor-furnisher herein (as applicable) were scheduled
 18 in the bankruptcy and each respective creditor, or its predecessor in interest,
 19 received notice of the bankruptcy.

20 19. None of the creditor-furnishers named herein filed any proceedings to declare
 21 their alleged debts “non-dischargeable” pursuant to 11 U.S.C. § 523 et seq.

22 20. No creditor-furnisher named herein obtained relief from the “automatic stay”
 23 codified at 11 U.S.C. §362 et seq. while Plaintiff’s bankruptcy was pending to
 24 pursue Plaintiff for any personal liability.

25 21. Further, while the automatic stay was in effect during the bankruptcy, it was
 26 illegal and inaccurate for any creditor-furnisher named herein to report any
 27 post-bankruptcy derogatory collection information, pursuant to the Orders

1 entered by the bankruptcy Court.

2 22. The accounts named herein (as applicable) were discharged through the
3 bankruptcy on Jan 19, 2021.

4 23. However, Defendants either reported or caused to be reported inaccurate
5 information as discussed below after Plaintiff's debts were discharged.

6 24. Additionally, Defendants' inaccurate reporting did not comply with the
7 Consumer Data Industry Association's Metro 2 reporting standards, which
8 provides guidance for credit reporting and FCRA compliance.

9 25. The Consumer Data Industry Association ("CDIA") publishes the Metro 2
10 ("Metro 2") reporting standards to assist furnishers with their compliance
11 requirements under the FCRA.

12 26. Courts rely on such guidance to determine furnisher liability. *See, e.g., In re*
13 *Helmes*, 336 B.R. 105, 107 (Bankr. E.D. Va. 2005) (finding that "industry
14 standards require that a debt discharged in bankruptcy be reported to a credit
15 reporting agency with the notation 'Discharged in bankruptcy' and with a zero
16 balance due").

17 27. On information and belief, Defendants adopted and at all times relevant
18 implemented the Metro 2 format.

19 28. On information and belief, each furnisher named herein adopted the Metro 2
20 reporting standards and at all times relevant implemented the Metro 2 format as
21 an integral aspect of their respective duties under the FCRA to have in place
22 adequate and reasonable policies and procedures to handle investigations of
23 disputed information.

24 29. Each furnisher named herein failed to conform to the Metro 2 Format when
25 reporting on Plaintiff's accounts after Plaintiff filed bankruptcy as further set
26 forth below.

27 30. In turn, each of the credit reporting agencies named herein, reported and

re-reported the inaccurate information, thus violating their duty to follow reasonable procedures to assure maximum possible accuracy under 15 U.S.C. § 1681e(b) when preparing a consumer report.

31. To this end, the adverse reporting on Plaintiff's consumer report departed from the credit industry's own reporting standards and was not only inaccurate, but also materially misleading under the CDIA's standards as well.

32. A "materially misleading" statement is concerned with omissions to credit entries, that in context create misperceptions about otherwise may be factually accurate data. *Gorman v. Wolpoff & Abramson, LLP*, 584 F.3d 1147, 1163 (9th Cir. 2009).

**Experian and Discover Misreported Consumer Information
and Failed to Investigate Plaintiff's Dispute**

Re: Discover Account No. **1100**

33. In Plaintiff's consumer report from Experian dated Feb 22, 2021, Experian and Discover inaccurately reported Plaintiff's account status as paid in settlement with \$1,853 written off. This was inaccurate, misleading, and derogatory because Plaintiff filed for bankruptcy on Oct 13, 2020 and Plaintiff received a discharge on Jan 19, 2021.

34. On Mar 12, 2021, Plaintiff disputed the inaccurate reporting pursuant to 15 U.S.C. § 1681i, by notifying Experian, in writing, of the inaccurate, misleading, and derogatory information.

35. Specifically, Plaintiff sent a letter, certified, return receipt, to Experian, requesting the above inaccurate information be updated, modified, or corrected.

36. Experian was required to conduct a reinvestigation into the disputed information on Plaintiff's consumer report pursuant to 15 U.S.C. §1681i.

37. Upon information and belief, Experian timely notified Discover regarding Plaintiff's dispute, as required under 15 U.S.C. § 1681i(a)(2).

- 1 38. Upon information and belief, Experian provided Discover with a notice
2 regarding Plaintiff's dispute under 15 U.S.C. § 1681i(a)(5)(A).
- 3 39. Upon information and belief, Experian provided all relevant information to
4 Discover regarding Plaintiff's dispute, as required under 15 U.S.C. §
5 1681i(a)(2).
- 6 40. Plaintiff never received any notification from Experian that Experian and
7 Discover investigated and reinvestigated Plaintiff's dispute, as required under
8 15 U.S.C. § 1681i(a)(6).
- 9 41. A reasonable investigation by Experian and Discover would have determined
10 that they were reporting the above disputed information inaccurately.
- 11 42. Experian and Discover failed to review all relevant information provided by
12 Plaintiff in Plaintiff's dispute, as required by and in violation of 15 U.S.C. §
13 1681i and 15 U.S.C. § 1681s-2(b), respectively.
- 14 43. Upon information and belief, Discover continued to report the inaccurate
15 information.
- 16 44. In turn, Experian re-reported the inaccurate information, thus violating its duty
17 to follow reasonable procedures to assure maximum possible accuracy under 15
18 U.S.C. § 1681e(b) when preparing a consumer report.
- 19 45. Experian and Discover, upon receipt of Plaintiff's dispute, failed to conduct an
20 investigation or reinvestigation with respect to the disputed information as
21 required by 15 U.S.C. § 1681i and 15 U.S.C. § 1681s-2(b), respectively.
- 22 46. Due to Experian's and Discover's failure to reasonably investigate, they further
23 failed to correct and update Plaintiff's information as required by 15 U.S.C. §
24 1681i and 15 U.S.C. § 1681s-2(b), thereby causing continued reporting of
25 inaccurate information in violation of 15 U.S.C. § 1681i and 15 U.S.C. §
26 1681s-2(b), respectively.
- 27 47. Experian's and Discover's continued inaccurate, misleading, and derogatory

reporting was knowing and willful, in light of their knowledge of the actual error. Plaintiff is, accordingly, eligible for statutory damages.

48. Also as a result of Experian's and Discover's continued inaccurate, misleading, and derogatory reporting, Plaintiff has suffered actual damages, including without limitation, fear of credit denials, out-of-pocket expenses in challenging the inaccurate reporting, damage to Plaintiff's creditworthiness, and emotional distress.

49. By inaccurately reporting consumer information after notice and confirmation of their errors, Experian and Discover failed to take the appropriate measures as required under 15 U.S.C. § 1681i and 15 U.S.C. § 1681s-2(b), respectively.

Plaintiff's damages

50. In addition to Plaintiff's creditworthiness being negatively impacted, Plaintiff suffered emotional distress and mental anguish as a result of Defendants' actions described herein. In addition, Plaintiff incurred out-of-pocket costs and time in attempts to dispute Defendants' actions. Plaintiff further suffered humiliation and embarrassment.

VIOLATION OF THE FAIR CREDIT REPORTING ACT

15 U.S.C. § 1681

51. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

52. The foregoing acts and omissions constitute numerous and multiple willful, reckless, or negligent violations of the FCRA, including but not limited to each and every one of the above-cited provisions of the FCRA, 15 U.S.C § 1681, et seq.

53. As a result of each and every willful violation of the FCRA, Plaintiff is entitled to actual damages as the Court may allow pursuant to 15 U.S.C. § 1681n(a)(1); statutory damages pursuant to 15 U.S.C. § 1681n(a)(1); punitive damages as the Court may allow pursuant to 15 U.S.C. § 1681n(a)(2); and reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1681n(a)(3) from Defendants.

54. As a result of each and every negligent noncompliance of the FCRA, Plaintiff is entitled to actual damages as the Court may allow pursuant to 15 U.S.C. § 1681o(a)(1); and reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1681o(a)(2) from Defendants.

Prayer for relief

55. Plaintiff prays that judgment be entered against Defendants, and Plaintiff be awarded damages from Defendants, as follows:

- An award of actual damages pursuant to 15 U.S.C. § 1681n(a)(1);
- An award of statutory damages pursuant to 15 U.S.C. § 1681n(a)(1);
- An award of punitive damages as the Court may allow pursuant to 15 U.S.C. § 1681n(a)(2);
- An award of costs of litigation and reasonable attorney's fees, pursuant to 15 U.S.C. § 1681n(a)(3), and 15 U.S.C. § 1681(o)(a)(1); and
- Any other relief that this Court deems just and proper.

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Jury Demand

56. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: May 28, 2021

Respectfully submitted,

KIND LAW

/s/ Michael Kind

Michael Kind, Esq.
8860 South Maryland Parkway, Suite 106
Las Vegas, Nevada 89123

FREEDOM LAW FIRM

/s/ George Haines.

George Haines, Esq.
8985 S. Eastern Ave., Suite 350
Las Vegas, Nevada 89123
Counsel for Plaintiff Emma Patricio